

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID GOGGINS, GOGGINS BUILT NOT
BORN, LLC, and GOGGINS, LLC,

Plaintiffs,

v.

AMAZON.COM, INC.,

Defendant.

Case No.

COMPLAINT
JURY DEMAND

Plaintiff David Goggins (“Goggins”), Goggins Built Not Born, LLC (“GBNB”), and Goggins, LLC (collectively with Goggins and GBNB, “Plaintiffs”) hereby state this Complaint against Defendant Amazon.com, Inc. (“Amazon” or “Defendant”) as follows:

INTRODUCTION

1. Goggins is a world-renowned athlete, author, and speaker known for his rise from childhood poverty and abuse to U.S. Navy SEAL to world-class endurance athlete to author and motivational speaker. His extraordinary story, including superhuman feats of physical endurance have been viewed hundreds of millions of times by fans and followers throughout the world. Goggins’ best-selling books, Can’t Hurt Me: Master Your Mind and Defy the Odds (“Can’t Hurt

1 Me”) and Never Finished: Unshackle Your Mind and Win the War Within (“Never Finished” and
2 collectively with Can’t Hurt Me, the “Books”) have sold approximately seven (7) million copies.

3 2. Goggins has developed an impeccable reputation and loyal following thanks to his
4 powerful and inspiring messages of discipline and self-belief. As a result, countless individuals
5 across the globe credit Goggins and his Books as fueling positive and meaningful transformation in
6 their own lives.

7 3. Goggins self-published Can’t Hurt Me. The book’s popularity has made Goggins
8 one of the most successful self-published authors of all time.

9 4. Amazon operates websites, including Amazon.com, that sell books and other
10 products. Amazon proclaims it provides the “world’s most trustworthy shopping experience.”
11 Amazon publicly touts that it has advanced technology to remove inauthentic and counterfeit
12 products, claiming it “strictly prohibits the sale of counterfeit products.” Amazon claims it
13 “investigate[s] every claim of potential counterfeit thoroughly.” These and other claims leave
14 authors, sellers, and the consuming public with the impression that Amazon.com does not allow
15 and is free from the sale of fake, bootleg, counterfeit, or otherwise inauthentic books and products.
16 As used herein, the term “bootleg” refers to inauthentic, fake, counterfeit, or otherwise
17 unauthorized products.

18 5. Goggins began selling his book Can’t Hurt Me on Amazon’s websites. New,
19 unsigned, hard-cover copies of Can’t Hurt Me were sold on Amazon.com, Amazon.ca, and
20 Amazon.co.uk, and now only Amazon.com, through the Amazon Advantage program. While
21 Goggins sold signed hard-covers via his Shopify site and in a small New Jersey bookstore for a
22 short period, no party other than Amazon, through its subsidiary Amazon Fulfillment Services,
23 Inc., has had a right to sell new copies of that hardcopy book on the Amazon marketplaces, or any
24 other website or marketplace.
25

1 6. Amazon was in the unique position of (1) knowing that the only company with the
2 right to sell new, hardcopy Can't Hurt Me books was its own subsidiary, and (2) controlling the
3 websites, marketplace, and sellers offering the title. Because it controlled both the sale and website
4 offerings, Amazon had knowledge that any hardcover book not sold by Amazon itself was not
5 legitimate.

6 7. Despite Amazon's unique knowledge and control, Amazon repeatedly sold bootleg:
7 (1) summaries of the Books using Goggins' images; (2) full versions of the Books; (3) Goggins
8 biographies using Goggins' images; and (4) consumer products using Plaintiffs' intellectual
9 property via Amazon.com and other Amazon marketplaces. Each of these bootleg sales unjustly
10 stole revenue from Goggins. Amazon, however, received revenue from each sale, just as if
11 Goggins' authentic products had been sold.

12 8. In June of 2019, Goggins' representatives informed Amazon of certain bootleg
13 copies of Can't Hurt Me being sold on Amazon's marketplace. Amazon allowed the books to
14 remain on its marketplace, claiming "third party sellers can list your book for sale" and that
15 Amazon does "not control certain aspects of their Amazon product listing, including price,
16 shipping, condition and delivery items." These statements were deceptive or had the capacity to
17 deceive because Amazon, in fact, has full control over third party sales by virtue of its power to
18 remove sellers or product listings at any time, but simply chooses not to.

19 9. Indeed, Amazon has rapidly restricted bootlegs when it suits Amazon's interests.
20 For example, in 2019, Adam Scolnick, an independent reporter and collaborator with Goggins on
21 Can't Hurt Me, contacted Amazon about doing a story related to the bootleg versions of Can't Hurt
22 Me and other books. When Amazon's own public image was at risk, Amazon acted. In a July 25,
23 2019 email, Amazon claimed it added "qualifications" to sell paperback copies of Can't Hurt Me.
24 Amazon's ability to further scrutinize who could and could not sell shows Amazon controls the
25 products offered on its websites.

1 10. Amazon's restrictions on bootleg versions of the Books, however, did not last.
2 Bootleg versions once again proliferated Amazon's websites, causing consumers to believe
3 Goggins was selling low quality, pages-missing, wrong-dimension books.

4 11. Goggins and his team pleaded with Amazon to remove the bootleg versions of the
5 Books. Goggins and his representatives sent Amazon hundreds of follow up messages informing
6 Amazon of the continuing infringement, but received insignificant assistance in removing the
7 bootleg Books. Despite Amazon's full knowledge of these bootleg book sales, Amazon continued
8 to allow them on its websites and marketplaces. Amazon did not care. It continued to make money
9 from each bootleg item sold.

10 12. On multiple occasions, third parties have unwittingly asked Goggins to sign bootleg
11 versions of his Books. As an example, in September of 2023, Goggins performed a book signing of
12 125 copies of Can't Hurt Me that Goggins' client had ordered from Amazon.com. When Goggins
13 opened the books to sign them, he discovered that Amazon had sold and delivered bootleg books.
14 This greatly embarrassed Goggins in front of his fans and client. Nevertheless, not wanting to
15 disappoint the 125 people waiting in line to get a signed copy, Goggins endured the humiliating
16 task of signing and posing for photographs with bootleg versions of his book Can't Hurt Me.

17 13. To investigate the extent of the bootleg problem, Goggins ordered multiple copies
18 of Can't Hurt Me from Amazon's websites. Thirteen copies in that round of test purchases were
19 bootlegs. The bootleg versions Amazon sold suffered from obvious defects, including smaller book
20 size, cut-off photos, poor paper quality, inferior binding, and thickness differences, among others.

21 14. In September of 2023, with the bootleg issue intensifying, Goggins' representative
22 informed Amazon, "I don't know how many times I can keep reaching out to people at Amazon
23 with little to no help in changing how they manage our book." Before Amazon would act against
24 bootleg book listings, Plaintiffs were required to personally identify and purchase bootlegged
25 copies of the Books. Amazon's websites were inundated with bootleg versions of Can't Hurt Me.

1 Bootleggers were able to create a foothold on the marketplace because of Amazon's lax
2 enforcement, making this approach expensive, unrealistic, and unsustainable for Goggins, or for
3 any other author.

4 15. Amazon's failure to remove the bootleg versions of the Books, while touting that it
5 was a trustworthy marketplace to consumers, damaged Goggins' reputation, and damaged
6 Plaintiffs financially. Consumers, believing Amazon's claims that it was trustworthy and that it did
7 not sell counterfeits, thought Goggins was selling inferior-quality books. On multiple occasions,
8 customers provided negative feedback on Amazon.com, mistakenly believing they had purchased
9 poor-quality books from Goggins. Amazon allowed and maintained the comments online at its
10 websites.

11 16. After informing Amazon that "we can only beg for help for so long," Goggins'
12 representative informed Amazon that he would make the issue public. On October 5, 2023,
13 Goggins, who has over 11 million Instagram followers, posted a message on his Instagram feed
14 informing his followers of a systemic issue at Amazon whereby it was allowing bootleg copies of
15 his books to be sold on Amazon.com. The post generated over 6.2 million views, 300,000 likes and
16 more than 5,000 comments, many of which expressed shock and disbelief that Amazon would
17 allow bootleg sales of Goggins' Books on its platforms.

18 17. Amazon, with its self-interest in mind and reputation at stake, showed again that it
19 had the ability to control and prevent the sale of bootleg versions of the Books when it wanted to.
20 Within days of Goggins' Instagram post, Amazon called Goggins' representatives and foreign
21 rights literary agent, reflecting Amazon knew how to reach Goggins all along. It then shut down
22 bootleg sales of the Books on its websites by limiting sales of the Books to authorized sellers,
23 namely Amazon.com. Amazon could have prevented the listing, sale, and distribution of bootlegs
24 at any time. Only after Goggins' post exposed Amazon to public scrutiny did it decide to. But the
25

1 harm was already done. Amazon's sustained failure to timely take similar action damaged
2 Plaintiffs.

3 18. Because Amazon controls its websites, it controls when the bootleg versions of the
4 Books can be sold, when the sales can be stopped, and when they can be resumed. Amazon's
5 ability to allow bootleg books on its websites by simply altering its own restrictions places
6 Goggins, and other authors, in an untenable position. Amazon's conduct creates a risk of
7 continuing reputational and financial harm that requires constant policing of Amazon's websites.
8 Each violation is another instance of harm to Plaintiffs.

9 19. This action arises from Defendant's false narrative that it offers the world's most
10 trustworthy shopping experience and strictly prohibits counterfeits while privately engaging in a
11 pattern of failing to and refusing to take action to prevent the unauthorized sale of bootleg
12 products. Despite significant efforts by Goggins in identifying bootleg versions of the Books and
13 reporting them to Amazon, Defendant failed to take sufficient steps to ensure that it sells
14 consumers (e.g., Goggins' community of followers and potential customers) genuine, authentic
15 products.

16 20. Defendant's unabated proliferation of bootleg copies of Goggins' Books while
17 touting itself as trustworthy (thus putting the blame on Goggins) has resulted in damage to
18 Goggins' goodwill and reputation, has forced Goggins to spend hundreds of thousands of dollars to
19 enforce against bootleg versions sold on Amazon's website, and has allowed consumers to believe
20 that they were purchasing the authentic versions of Goggins' Books, when in fact Amazon
21 promoted and sold bootleg versions. Amazon used its market power to protect its reputation.
22 Amazon continued to profit from the sale of both the authentic version of the Books and, more
23 importantly, the bootleg versions, content to let consumers incorrectly and unjustly blame
24 Goggins, instead of Amazon, for the poor quality bootleg versions of the Books they received.
25

21. This is an action for infringement of personality rights in violation of Washington's Personality Rights Act ("PRA," RCW § 63.010 *et seq.*); false advertising under the Lanham Act (15 U.S.C. § 1051 *et seq.*); copyright infringement under the Copyright Act (17 U.S.C. § 101 *et seq.*); violation of the Washington Consumer Protection Act (RCW 19.86.010 *et seq.*); common law claims of false advertising, tortious interference with a contractual relationship or business expectancy, and unjust enrichment; and for substantial and related claims under the statutory and common laws of the State of Washington.

THE PARTIES

22. David Goggins is an individual who resides in Las Vegas, Nevada.

23. Goggins Built Not Born, LLC is a Delaware Limited Liability Company with a principal place of business in Nevada.

24. Goggins, LLC is a Delaware Limited Liability Company with a principal place of business in Nevada.

25. Amazon.com, Inc. is a Delaware Corporation with its principal executive offices at 410 Terry Avenue North, Seattle, Washington 98109-5210.

JURISDICTION AND VENUE

26. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332 as Plaintiffs and Amazon have diversity of citizenship and the sum or value of the controversy exceeds \$75,000, exclusive of interest and costs.

27. The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 as the claims of Plaintiffs arise under the laws of the United States, namely under the Copyright Act (17 U.S.C. § 101 *et seq.*) and the Lanham Act (15 U.S.C. § 1051 *et seq.*). The Court further has supplemental jurisdiction over Plaintiffs' remaining claims as the claims are so related to claims brought under 28 U.S.C. § 1331 that they form part of the same case or controversy.

1 28. Venue in this District is proper pursuant to 28 U.S.C. § 1391(b)(1) as Amazon
2 resides in this District.

3 29. This Court has general personal jurisdiction over Amazon consistent with the
4 principles of due process. The Court has general personal jurisdiction over Amazon, a corporate
5 defendant, because Amazon is fairly regarded as at home in this State because its principal place of
6 business is in this State.

7 **DAVID GOGGINS' HISTORY AND REPUTATION**

8 30. Goggins is an awe-inspiring individual whose life story is a lesson in overcoming
9 hardship and adversity to achieve greatness. Goggins endured a brutal upbringing that easily could
10 have relegated him to a life of depression and meaninglessness. Instead, he used his suffering as a
11 catalyst to grow and adapt.

12 31. Goggins is a Retired Navy SEAL and the only member of the U.S. Armed Forces to
13 complete SEAL training, Army Ranger School, and Air Force Tactical Air Controller training.
14 Since honorably retiring from the military in 2015, Goggins has worked for the US Forest Service
15 as a Wildland Firefighter and for the last two years as a Smokejumper in British Columbia.
16 Goggins has also pursued his Advanced EMT degree as well as earned certification as a Primary
17 Care Paramedic in Canada and has worked in a big-city hospital as an ER Tech.

18 32. Goggins is widely considered to be among the world's best ultra-endurance athletes.
19 He has competed in more than 70 endurance races, has placed 3rd at the Badwater 135 Death
20 Valley, considered the world's toughest foot race, and regularly placing in the top five in other
21 ultramarathons. Until recently, he also held the Guinness World Record for the most pull-ups done
22 in a single day completing 4,030 in 17 hours.

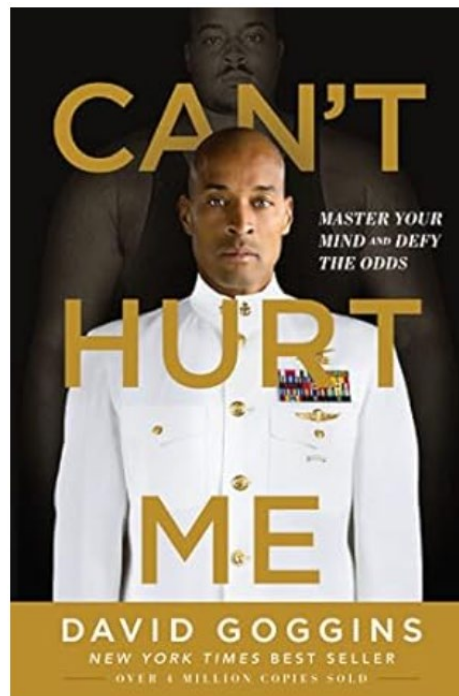
23 33. Goggins' physical feats and tough-love message to embrace suffering and discipline
24 have been well-received by the consuming public. As a result, Goggins enjoys a committed
25 audience of millions of people. Long before Goggins ever achieved fame he was practicing his

own methods to overcome tribulations in his own life. This authenticity and integrity resonate with his followers and has earned him profound respect. As Goggins' fame grew, he found purpose in using his own inner and physical strength to impart strength to others. This led to his decision to start his businesses, Goggins, LLC and GBNB, and eventually to self-publish his Books.

34. Goggins remains committed to his core values. He continues to push his mind and his body to their limits and manages his business to ensure it produces only high-quality products and content. Because of this internal resolve and authenticity, Goggins has earned goodwill and reputation associated with his name and brand, both of which he vigilantly protects. Amazon's conduct tarnishes both Goggins' goodwill and reputation.

GOGGINS' SELF-PUBLISHED BOOKS

35. Goggins is the author of the self-published book Can't Hurt Me.



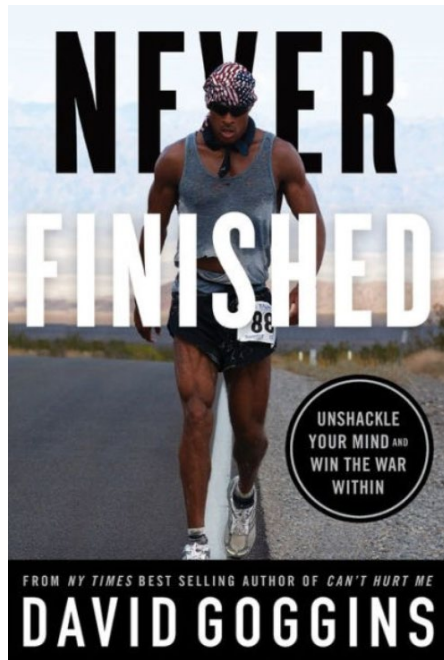
36. Can't Hurt Me details Goggins' life story of overcoming his brutally difficult upbringing to become a Navy SEAL, world-renowned endurance athlete, and one of the world's leading authorities on mental toughness. Can't Hurt Me became a *New York Times* bestselling

book that was featured on global media platforms like the Joe Rogan Experience podcast and has been on Amazon's best-selling list for over 200 weeks.

37. GBNB maintains copyright registration number TX0008752122 to Can't Hurt Me. To date, Can't Hurt Me has sold millions of copies in multiple languages and is currently available in hardcover, paperback, audiobook, and Kindle formats. There is also a clean version available in paperback and eBook.

38. New, unsigned, hard-cover copies of Can't Hurt Me have been exclusively sold on Amazon.com, Amazon.ca, and Amazon.co.uk, and now only Amazon.com, through the Amazon Advantage program. The paperback version of the book is printed through the Kindle Direct Publishing service and a third-party provider.

39. Goggins is the author of the self-published book Never Finished.



40. Never Finished takes a reader inside Goggins' "Mental Lab" where he developed the philosophy, psychology, and strategies that enabled him to learn that what he thought was his

1 limit was only his beginning and that the quest for greatness is unending. Never Finished hit
 2 number 1 on Amazon's best-seller list.

3 41. GBNB maintains copyright registration number TXu002337826 to Never Finished.
 4 To date, Never Finished has sold over a million copies in multiple languages and is currently
 5 available in hardcover, paperback, audiobook, and Kindle formats.

6 **AMAZON AND ITS CLAIMS OF TRUSTWORTHINESS**

7 42. Amazon operates the world's largest online marketplace on the website
 8 Amazon.com, among others. Amazon regularly holds its websites out as reliable and secure places
 9 to purchase products, including books. Amazon makes specific claims related to its trustworthiness
 10 and actions it claims to take to prohibit counterfeit and inauthentic products which are deceptive or
 11 have the capacity to deceive. Goggins relied on Amazon's claims because they gave him
 12 confidence that Amazon could be a trusted partner and platform. Consumers rely on these claims
 13 when they shop on Amazon's websites. These claims are also literally or impliedly false.

14 43. On June 23, 2019, the *New York Times* published an article titled What Happens
 15 After Amazon's Market Domination Is Complete? Its Bookstore Offers Clues. The article cites
 16 publishers, writers, and groups such as the Authors Guild stating that "counterfeiting of books on
 17 Amazon has surged." The article provided examples, including a statement from Pulitzer Prize-
 18 winning author Andrew Sean Greer who explained bootleg versions of his novel, Less, were being
 19 sold as the real thing. The article reported that a counterfeit edition of Danielle Trussoni's memoir,
 20 Falling Through the Earth, which misspelled her name, was sold on Amazon's website. The article
 21 went on to report the sale of "an illegal paperback" of Florida, Lauren Groff's book, on
 22 Amazon.com. The article included reference to a test buy of a book where 30 of 34 copies
 23 purchased were counterfeit.

24 44. Amazon responded to the *New York Times* article on June 24, 2019, claiming
 25 "Amazon strictly prohibits the sale of counterfeit products." Amazon also claimed in the statement

that, “We investigate every claim of potential counterfeit thoroughly....” Amazon, *Our response to the New York Times’ story on book counterfeiting*, AboutAmazon.com, <https://www.aboutamazon.com/news/books-and-authors/our-response-to-the-new-york-times-story-on-book-counterfeiting> (June 24, 2019)(Attached hereto as Exhibit 1).

45. Amazon vaunts the trustworthiness of its marketplace and that it “strictly prohibit(s)” the sale of counterfeit / inauthentic products on its platforms. *Amazon Brand Protection Report*, AboutAmazon.com, <assets.aboutamazon.com/2c/9e/2e907d06477a88c5bc556f95d27c/amazon-brand-protection-report-3rd-annual.pdf> (April, 2023) (Attached hereto as Exhibit 2), at 5.

Our Commitment to Brand Protection

We strive to deliver the world’s most trustworthy shopping experience, offering customers the widest possible selection of authentic products. To earn and maintain our customers’ trust, we strictly prohibit the sale of counterfeit products, and we continue to invest in innovations that ensure only authentic products reach our customers.

46. Amazon operates an associate program that touts an anti-counterfeiting policy that provides the sale of inauthentic products “is strictly prohibited.” The policy continues to state, “When we identify such products we remove these products and take action against the seller that listed the product.” *Amazon Anti-Counterfeiting Policy*, Amazon Associates, <https://affiliate-program.amazon.com/resource-center/amazon-associates-anti-counterfeiting-policy>, last visited February 21, 2024 (Attached hereto as Exhibit 3).

Amazon Associates Anti-Counterfeiting Policy

Amazon strives to ensure a trustworthy shopping experience for our customers. The sale of counterfeit or inauthentic products (including products that have been illegally replicated, reproduced, or manufactured), is strictly prohibited. When we identify such products we remove these products and take action against the seller that listed the product.

As an Amazon Associate you must not use wording such as “dupe,” “fake,” or “faux” in connection with a brand or knowingly promote counterfeit products or products that infringe the intellectual property rights of others. Failure to abide by this policy may result in suspension or termination of your account, including funds being withheld.

47. Moreover, Amazon releases a “Brand Protection Report” each year to publicly masquerade its efforts to prevent counterfeiting. For example, in the most recent Brand Protection Report (the “2023 BPR”), Amazon posits that a critical part of its mission is ensuring customers receive an authentic product and that small businesses are free from competition from bad actors. The report states, “When a customer makes a purchase in our store, they trust they will receive an authentic product....” *Amazon Brand Protection Report* (April 2023) (Exhibit 2), at 2.

Introduction

Twenty-eight years ago, Amazon set out to become Earth’s most customer-centric company, and a critical part of that mission is earning and maintaining customers’ trust. When a customer makes a purchase in our store, they trust they will receive an authentic product, whether the item is sold by Amazon Retail or by one of our millions of independent selling partners. And when small businesses choose to sell in our store, they trust we will provide a great selling experience free from competition with bad actors. These drive us to continue to innovate on how we ensure a trustworthy shopping and selling experience every day for our customers and selling partners.

48. The 2023 BPR also boasts that Amazon has invested more than \$1.2 billion and employed over 15,000 people dedicated to protecting customers, brands, selling partners, and its store from counterfeiting, fraud, and other forms of abuse. *Id.* at 2.

In 2022, we continued to advance our brand protection efforts with investments in industry-leading technology and expert people. We invested more than \$1.2 billion and employed over 15,000 people—including machine learning scientists, software developers, and expert investigators—dedicated to protecting customers, brands, selling partners, and our store from counterfeit, fraud, and other forms of abuse.

49. The 2023 BPR vaguely refers to unidentified “advanced technology” that purportedly allows Amazon to “continuously monitor” its store for potential counterfeit products and other abuse. *Id.* at 7. These are the same claims Amazon has made dating back to its June 24, 2019 response to the *New York Times* article.

Continuous Monitoring

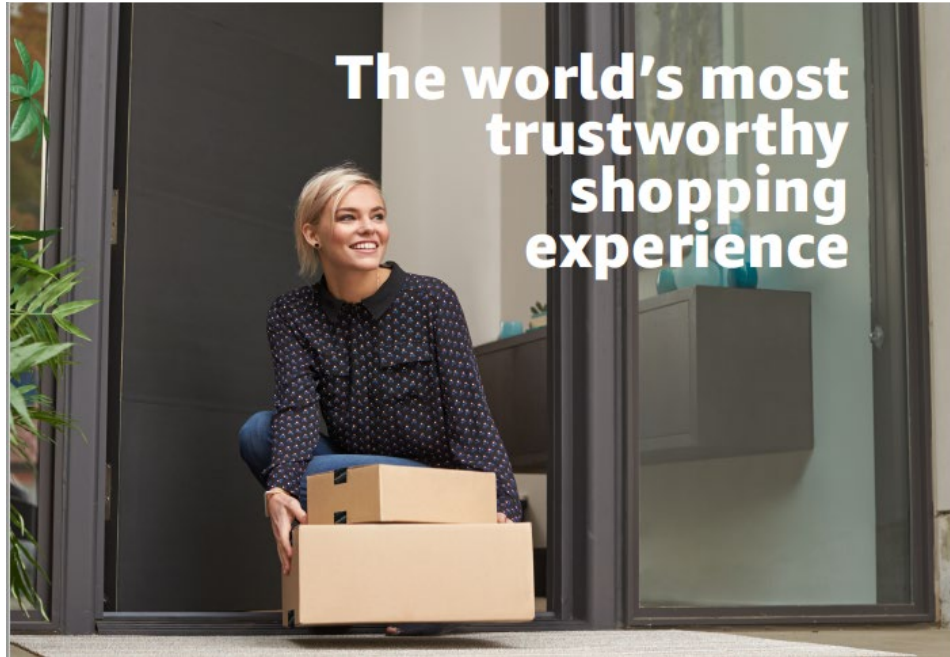
We continuously monitor our store for potential infringement. From the moment a seller lists a product for sale in our store, our advanced technology continually scans for potential counterfeit, fraud, and abuse—including future changes submitted for the product. We use the data and learnings gathered throughout these processes to innovate and improve our proactive protections. When we receive a valid notice of infringement or a customer complaint, our machine learning algorithms use this information to learn, improving our proactive detections and scaling protections for brands.

50. Amazon then states the obvious goal of driving “counterfeits to zero” and stopping such bad actors “for good.” *Id.* at 3 & 15. These are the same claims Amazon has made dating back to its June 24, 2019 response to the New York Times article.

We are proud of the progress we have made this past year, and we will continue to invest and innovate until we drive counterfeits to zero in our store. We also appreciate the growing industrywide partnership and collaboration in the fight against counterfeiting. While the industry still has a long way to go in driving the right public and private sector partnerships, we are excited about our progress and what we can do together to hold bad actors accountable to ensure the entire industry is rid of counterfeits.

When Amazon identifies an issue, we act quickly to protect customers and brands, including removing the problematic content or listing and, where appropriate, blocking accounts, withholding funds, and referring bad actors to law enforcement. Bad actors are constantly trying new tactics to attempt to evade our detection—for example, we have recently found a number of instances where they list generic products in Amazon’s store while purposefully promoting the same listings as counterfeits via social media. We continue to innovate to stay ahead of counterfeiters, and we work with brands and law enforcement to hold bad actors accountable. Our goal is to protect our store and customers and stop counterfeiters for good.

51. Amazon’s impression of itself based on these apparently Herculean efforts is that it holds the title of “The world’s most trustworthy shopping experience.” *Id.*, at 5.



52. But for thousands of sellers like Goggins, Amazon is all talk. Amazon's false public persona hurts the consuming public, authors, and brands. The truth must come to light.

AMAZON'S LISTINGS AND ACTIVITIES

53. Amazon operates websites at Amazon.com and other URLs. Amazon originally started in 1997 as an online bookseller selling direct to consumers from its own inventory, also known as first party sales. Over the years, Amazon has added numerous other products to its online offerings.

54. In approximately 1999, Amazon introduced the concept of "third-party sellers" on Amazon.com. Just like Amazon, third-party sellers sell books and other products to the consuming public. Third-party sellers are seamlessly integrated on the Amazon websites—consumer orders are made, processed, and paid through Amazon directly. Accordingly, many consumers are unaware that they are purchasing books and other products from third parties.

1 55. Third-party selling has been financially very successful for Amazon. In his 2018
2 letter to shareholders (dated April 11, 2019), Amazon Chairman and CEO Jeff Bezos stated,
3 tongue-in-cheek:

4 *“Third-party sellers are kicking our first party butt. Badly.”*

5 Jeff Bezos, *2018 Letter to Shareholders*, AboutAmazon.com,
6 [https://www.aboutamazon.com/news/company-news/2018-letter-to](https://www.aboutamazon.com/news/company-news/2018-letter-to-shareholders?utm_source=social&utm_medium=tw&utm_term=amznews&utm_content=2018letter&tag=bisafetynet2-20)
7 [shareholders?utm_source=social&utm_medium=tw&utm_term=amznews&utm_content=2018lette](https://www.aboutamazon.com/news/company-news/2018-letter-to-shareholders?utm_source=social&utm_medium=tw&utm_term=amznews&utm_content=2018letter&tag=bisafetynet2-20)
8 [r&tag=bisafetynet2-20](https://www.aboutamazon.com/news/company-news/2018-letter-to-shareholders?utm_source=social&utm_medium=tw&utm_term=amznews&utm_content=2018letter&tag=bisafetynet2-20) (April 11, 2019) (Attached hereto as Exhibit 4).

9 56. Mr. Bezos had reason to laugh: Amazon was also enjoying significant revenues
10 from these explosive third-party sales. Indeed, third-party sales account for a significant portion of
11 Amazon’s revenues.

12 57. In its 2019 10-K filed with the U.S. Securities and Exchange Commission, Amazon
13 reported for the years 2017, 2018 and 2019, respectively, approximately \$31 billion, \$42 billion
14 and \$53 billion in net sales from third-party seller services. *See*
15 [https://www.sec.gov/Archives/edgar/data/1018724/000101872420000004/amzn-](https://www.sec.gov/Archives/edgar/data/1018724/000101872420000004/amzn-20191231x10k.htm)
16 [20191231x10k.htm](https://www.sec.gov/Archives/edgar/data/1018724/000101872420000004/amzn-20191231x10k.htm), last visited February 21, 2024 (Attached hereto as Exhibit 5).

17 58. In its 2022 10-K, Amazon reported for the years 2020, 2021 and 2022, respectively,
18 approximately \$80 billion, \$103 billion and \$117 billion in net sales from third-party seller
19 services. *See* [https://www.sec.gov/Archives/edgar/data/1018724/000101872423000004/amzn-](https://www.sec.gov/Archives/edgar/data/1018724/000101872423000004/amzn-20221231.htm)
20 [20221231.htm](https://www.sec.gov/Archives/edgar/data/1018724/000101872423000004/amzn-20221231.htm), last visited February 21, 2024 (Attached hereto as Exhibit 6).

21 59. Unfortunately for consumers and for legitimate business owners, the explosion of
22 third-party sales on Amazon.com has coincided with rampant counterfeiting on the site.

23 60. While Amazon experienced explosive third-party sales growth that fueled its
24 bottom line and share price, authors, manufacturers, and the consuming public were left to bear the
25 cost of rampant counterfeiting on Amazon.com without compensation.

61. Amazon's websites offer a seamless integration of first party (Amazon) sales and third-party sales. The consumer conducts a single search and receives search results for all products. Amazon controls the search mechanism on the websites, including what products are listed in the search results. Consumers click on a search result and are brought to a product listing page.

62. While authors provide book specifications, descriptions, and certain content to be included in an Amazon listing, Amazon controls the listings of products on its websites, including the layout of the website page, the types of materials included, product details, information about authors, version details, seller information, customer reviews, book descriptions, editorial reviews, and details associated with the book or product. An example of an Amazon product listing is below:

Books › Health, Fitness & Dieting

Can't Hurt Me: Master Your Mind and Defy the Odds

Hardcover – December 2, 2018

by David Goggins (Author)

4.8 ★★★★★ 94,402 ratings

Amazon Charts 48 this week

See all formats and editions

Great on Kindle

Great Experience. Great Value.

Enjoy a great reading experience when you buy the Kindle edition of this book. [Learn more about Great on Kindle](#), available in select categories.

[View Kindle Edition](#)

New York Times Best Seller

Over 5 million copies sold

For David Goggins, childhood was a nightmare -- poverty, prejudice, and physical abuse colored his days and haunted his nights. But through self-discipline, mental toughness, and hard work, Goggins transformed himself from a depressed, overweight young man with no future into a U.S. Armed Forces icon and one of the world's top endurance athletes. The only man in history to complete elite training as a Navy SEAL, Army Ranger, and Air Force Tactical Air Controller, he went on to set records in numerous endurance events, inspiring Outside magazine to name him "The Fittest (Real) Man in America."

In *Can't Hurt Me*, he shares his astonishing life story and reveals that most of us tap into only 40% of our capabilities. Goggins calls this The 40% Rule, and his story illuminates a path that anyone can follow to push past pain, demolish fear, and reach their full potential.

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Language English

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ISBN-10 1544512287

Sponsored

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Ships from Amazon.com

Sold by Amazon.com

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Product details

Publisher : Lioncrest Publishing (December 2, 2018)

Language : English

Hardcover : 364 pages

ISBN-10 : 1544512287

ISBN-13 : 978-1544512280

Item Weight : 1.34 pounds

Best Sellers Rank: #1,413 in Books (See Top 100 in Books)
#285 in Health, Fitness & Dieting (Books)

Customer Reviews: 4.8 ★★★★★ 94,402 ratings

About the author

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David Goggins

David Goggins is a Retired Navy SEAL and the only member of the U.S. Armed Forces to complete SEAL training, Army Ranger School, and Air Force Tactical Air Controller training. Goggins has completed more than seventy ultra-distance races, often placing in the top five, and is a former Guinness World Record holder for completing 4,030 pull-ups in seventeen hours. A sought-after public speaker, he's traveled the world sharing his philosophy on how to master the mind. When he's not speaking, he works as an Advanced Emergency Technician in a big city Emergency Room and, during the summer, as a wildland firefighter in British Columbia.

Follow

63. Amazon controls other content on the product page, including books or products that are frequently purchased with the product, related products, and similar items. Amazon also includes sponsored listings and advertisements on product listing pages:

Frequently bought together



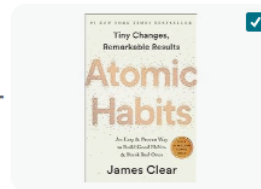
This item: Can't Hurt Me: Master Your Mind and Defy the Odds

\$25⁹³



Never Finished: Unshackle Your Mind and Win the War Within

\$20⁹⁶



Atomic Habits: An Easy & Proven Way to Build Good Habits & Break Bad Ones

\$13⁷⁹

Total price: \$60.68

Add all 3 to Cart

Products related to this item

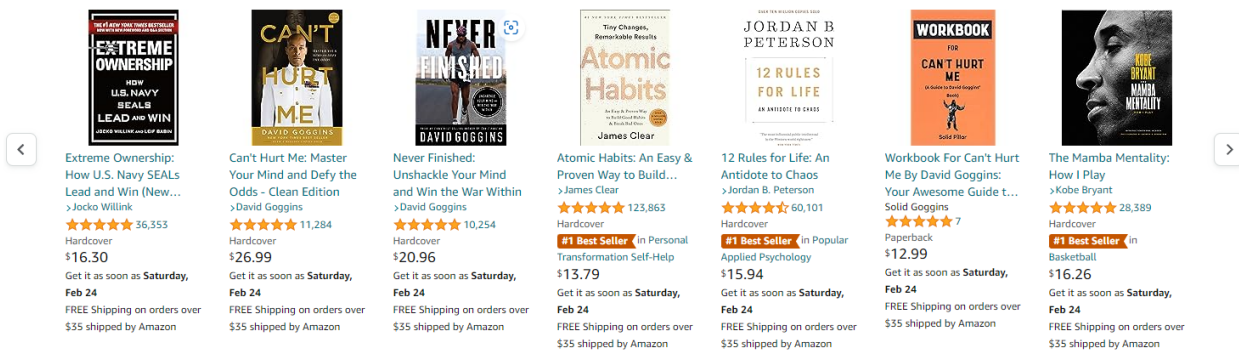
Page 1 of 80

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More items to explore

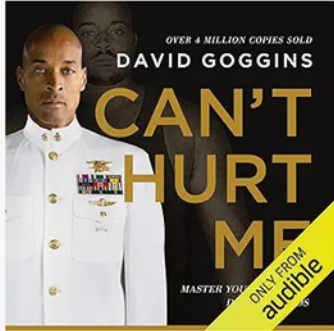
Page 1 of 8



64. Amazon controls the search mechanism and listing details related to the search, including the images, the placement of the title, the details regarding the seller, date of publication, customer comments, and version types. An example of a search page result for the Can't Hurt Me book is below:

Results

Best Seller



Can't Hurt Me: Master Your Mind and Defy the Odds
by David Goggins, Adam Skolnick, et al.

★★★★★ ~ 94,462

Audible Audiobook

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Kindle

\$9⁹⁹ Print List Price: \$24.99

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Other format: **Hardcover**

65. Upon information and belief, each product listing, and the information on that listing, is hosted on servers controlled by Amazon. Amazon controls and has the ability to create, edit, or remove any listing on its websites.

66. Amazon provides a wide array of logistic services to third-party sellers, integrating them into its marketplaces and websites. Amazon provides advertising services, payment processing services, shipping services, as well as training to support sellers that sell books and other products on Amazon's websites.

67. Upon information and belief, Amazon is involved in the creation and publication of the listings that offer third-party products, including the selection and uploading of images and other product information.

1 68. Upon information and belief, Amazon curates, selects, and publishes product
2 listings (otherwise known as product detail pages) for products that it sells directly and for
3 products that it assists others in selling.

4 69. Upon information and belief, Amazon selects third parties to sell on its websites.

5 70. Upon information and belief, Amazon controls or has the ability to control the price
6 of the products sold on its websites.

7 71. Amazon processes payments in connection with the sale of products that it sells and
8 products sold by third-party sellers.

9 72. Amazon controls or has the ability to control customer service related to products
10 Amazon sells, as well as third-party sales, including at least returns and refunds associated with the
11 products.

12 73. Upon information and belief, Amazon controls or has the ability to control reviews
13 listed in connection with the products listed on its websites.

14 74. Upon information and belief, Amazon maintains data security services to protect
15 consumers' personal and payment information on orders placed via Amazon.com and its other
16 websites.

17 75. Upon information and belief, Amazon provided the aforementioned services and
18 exercised control over the sale of third-party sellers who sold bootleg versions of the Books and
19 other infringing products.

20 **SALES OF BOOTLEG VERSIONS OF GOGGINS' SELF-PUBLISHED BOOKS AND**
21 **OTHER PRODUCTS**

22 76. GBNB has made Can't Hurt Me and Never Finished available on Amazon.com and
23 other Amazon websites.

24 77. Millions of authentic copies of the Books have been sold via Amazon's websites.
25 Bootleg copies, however, have been sold on the same sites.

78. Plaintiffs first became aware of bootleg versions of the Books in June of 2019. Rather than controlling the situation when they were first informed of the bootleg versions, Amazon permitted the rampant infringement to increase over time, directly contrary to Amazon's representations on brand protection. Plaintiffs were harmed each time Amazon allowed a listing of a bootleg on its platforms.

79. Examples of listings of Can't Hurt Me on Amazon-controlled websites are shown below. These are mere examples of the listings and show a sample of how many sellers were offering books in connection with the Can't Hurt Me listing on Amazon. Amazon controls the sellers that can list books.

\$20.98 New
& **FREE Shipping**

Wordery Specialist
94% positive (17,730 seller ratings)

Add to cart

\$17.00 New
+ \$3.99 shipping

GCCBooks
98% positive (91 seller ratings)

Add to cart

\$23.25 New



& **FREE Shipping**

Book Depository US

86% positive (855,874 seller ratings)

Add to cart

\$25.08 New



& **FREE Shipping**

PBShop UK

95% positive (295,395 seller ratings)

Add to cart

\$25.15 New



& **FREE Shipping**

Bahamut Media

91% positive (12,711 seller ratings)

Add to cart

\$26.44 New



& **FREE Shipping**

Firehouse Liquidation

96% positive (80,979 seller ratings)

Add to cart

\$24.01 New



+ \$3.99 shipping

MovieMars-Books

92% positive (326,566 seller ratings)

Add to cart

\$24.02 New



+ \$3.99 shipping

awesomebooksusa

92% positive (236,285 seller ratings)

Add to cart

\$24.35 New



+ \$3.99 shipping

RAREWAVES-IMPORTS

90% positive (128,632 seller ratings)

Add to cart

\$24.36 New



+ \$3.99 shipping

OxfordshireEngland

96% positive (128,570 seller ratings)

Add to cart

\$29.27 Used - Good
& FREE Shipping

GlassFrogBooks
90% positive (5,661 seller ratings)

Add to cart

\$29.30 Used - Like New
& FREE Shipping

riviera_america
94% positive (1,602 seller ratings)

Add to cart

\$29.47 New
& FREE Shipping





riviera_america
94% positive (1,602 seller ratings)

Add to cart

\$29.68 New
& FREE Shipping

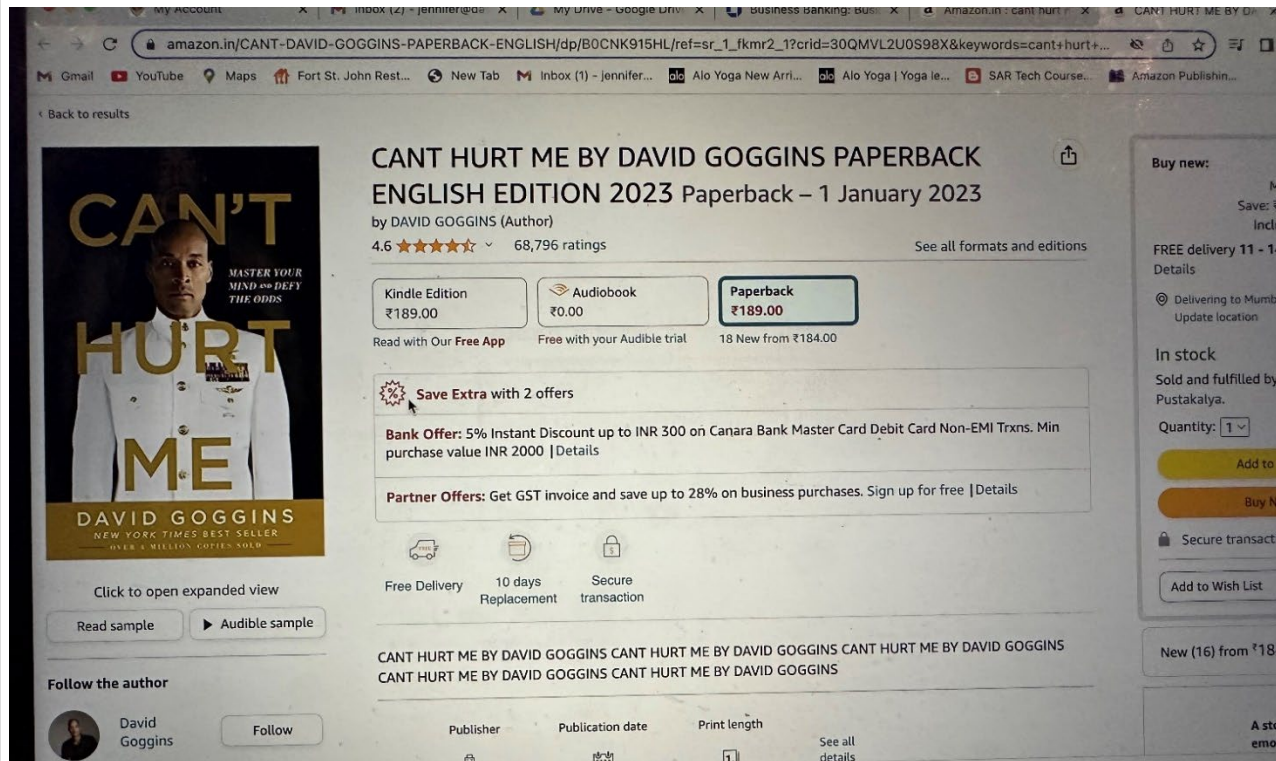
BOOKS etc. _
94% positive (16,515 seller ratings)

Add to cart

£18.88 + £1.35 Delivery	New	UKPaperbackshop ★★★★★ 96% positive over the past 12 months. (701,916 total ratings)	<ul style="list-style-type: none"> Arrives between Aug. 29 - Sept. 5. Dispatched from United Kingdom. Delivery rates and return policy. 	 Add to Basket
£15.58 + £4.86 Delivery	New	Wordery ★★★★★ 98% positive over the past 12 months. (696,259 total ratings)	<ul style="list-style-type: none"> Arrives between Aug. 29 - Sept. 5. Dispatched from United Kingdom. Delivery rates and return policy. 	 Add to Basket
£19.35 + £4.50 Delivery	New	BOOKS etc ★★★★★ 97% positive over the past 12 months. (153,918 total ratings)	<ul style="list-style-type: none"> Arrives between Aug. 31 - Sept. 17. Dispatched from United Kingdom. Delivery rates and return policy. 	 Add to Basket
£32.48 + £4.00 Delivery	New	RAREWAVES ★★★★★ 95% positive over the past 12 months. (263,063 total ratings)	<ul style="list-style-type: none"> Arrives between Aug. 31 - Sept. 18. Dispatched from United Kingdom. Delivery rates and return policy. 	 Add to Basket

CDN\$ 19.17 ✓prime & FREE Shipping on orders over CDN\$ 35. Details	New	amazon.ca.
CDN\$ 29.19 FREE Shipping	New	Wordery Canada ★★★★☆ 94% positive over the past 12 months. (23,376 total ratings)
CDN\$ 29.20 FREE Shipping	New	Book Depository CA ★★★★☆ 91% positive over the past 12 months. (216,500 total ratings)
CDN\$ 31.17 FREE Shipping	New	awesomebookscanada ★★★★☆ 92% positive over the past 12 months. (69,641 total ratings)
CDN\$ 31.44 + CDN\$ 3.99 shipping	New	Rarewaves-CA ★★★★☆ 96% positive over the past 12 months. (84,480 total ratings)
CDN\$ 28.55 + CDN\$ 6.89 shipping	New	Kennys Bookshop & Art Gallery ★★★★☆ 91% positive over the past 12 months. (1,850 total ratings)
CDN\$ 33.49 + CDN\$ 3.49 shipping	New	Chalkys CA ★★★★☆ 95% positive over the past 12 months. (28,869 total ratings)
CDN\$ 33.98 + CDN\$ 6.49 shipping	New	OxfordshireEngland ★★★★☆ 99% positive over the past 12 months. (862 total ratings)
CDN\$ 38.87 + CDN\$ 6.49 shipping	New	Russell-books ★★★★☆ 92% positive over the past 12 months. (10,349 total ratings)
CDN\$ 68.55 + CDN\$ 11.58 shipping	New	L Art books ★★★★☆ 91% positive, (32 total ratings)

80. Amazon also allows users to create new listings on product detail pages that are not related to Plaintiffs' Books. By way of example, a user created a new listing under ASIN B0CNK915HL in connection with Amazon's India website. The title was "Cant [sic] Hurt Me." The publisher was listed as "David Goggins JI". This fake listing rose to #74 in Books on Amazon's listing.

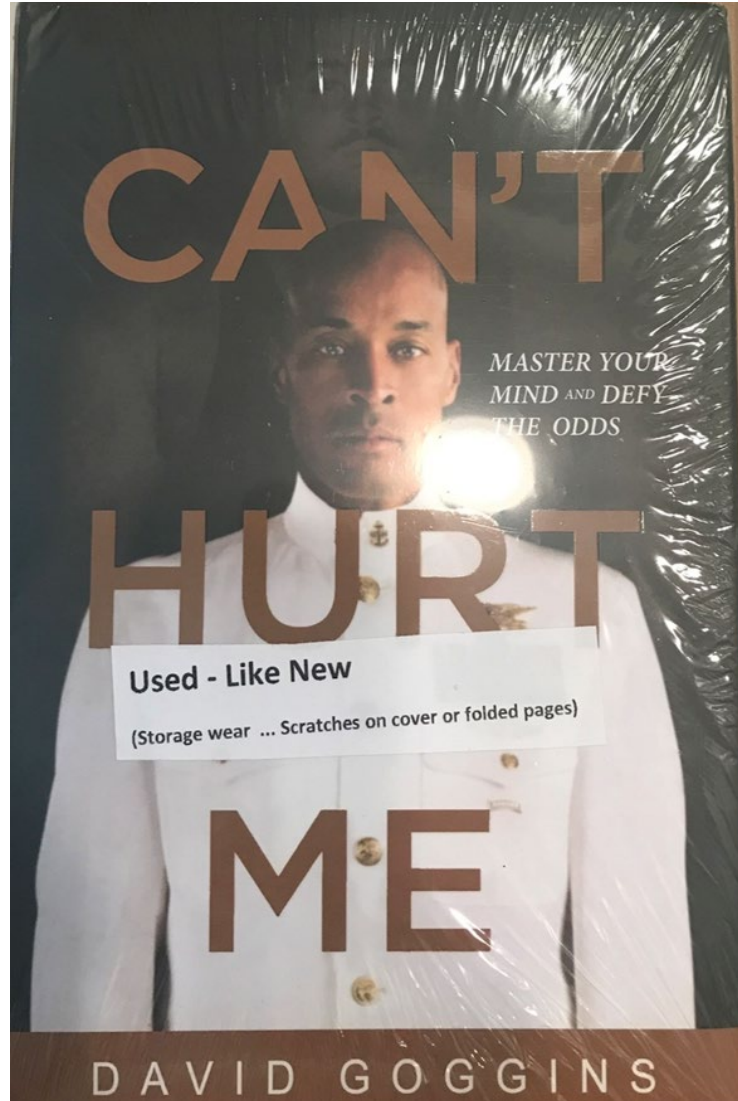


81. The product listing used Plaintiffs' intellectual property without permission. The listing, which appeared to be the official book listing but was not, was linked to the official audiobook and Kindle versions, creating the illusion that the listing was authentic. Eighteen sellers listed against the fake listing. That listing should not have been approved based on Amazon's public statements that the sale of counterfeit or inauthentic products is "strictly prohibited."

1 Amazon allowed third parties to use Plaintiffs' intellectual property to create a listing page on
2 Amazon's website and sell bootleg versions of the Books.

3 82. Because of Amazon's failure to use its "advanced technology" to "continuously
4 monitor" its websites, as it claimed to do, Plaintiffs had to step into the monitoring role and expend
5 hundreds of thousands of dollars to do so. In the instance related to ASIN B0CNK915HL
6 discussed above, as with multiple other listings, Plaintiffs monitored the website and located the
7 fake products. Plaintiffs notified Amazon of the issue. Only after Plaintiffs monitored, located, and
8 reported the bootleg versions of Can't Hurt Me did Amazon take any action, if at all. And, to show
9 Amazon does in fact control the content on its website, Amazon removed the content. That content
10 never should have been actively listed.

11 83. Bootleg versions of the Books were not just sold as "new," but also listed as "Used
12 – Like New" on Amazon's website in connection with the official listing and, upon information
13 and belief, separate product listing pages. As an example, Amazon's website included offerings
14 from Etenda Mart selling bootleg versions of "Used – Like New" copies of Can't Hurt Me. Those
15 books were housed in an Amazon warehouse in Las Vegas and shipped from Amazon to buyers.
16 Via a test purchase by Plaintiffs, Amazon shipped a copy of a book titled "Can't Hurt Me" with a
17 sticker "Used – Like New."
18
19
20
21
22
23
24
25



84. The “Used – Like New” book was a bootleg version of Can’t Hurt Me. Upon information and belief other books sold as “Used – Like New” were also bootleg versions of the Books.

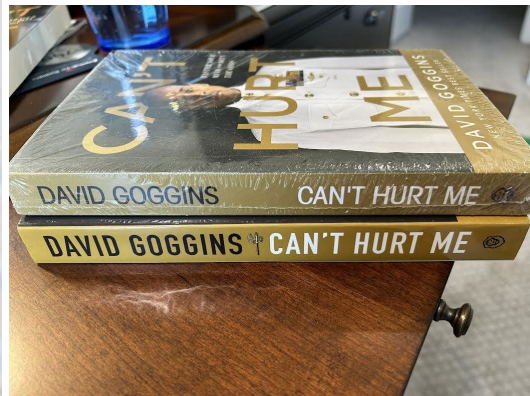
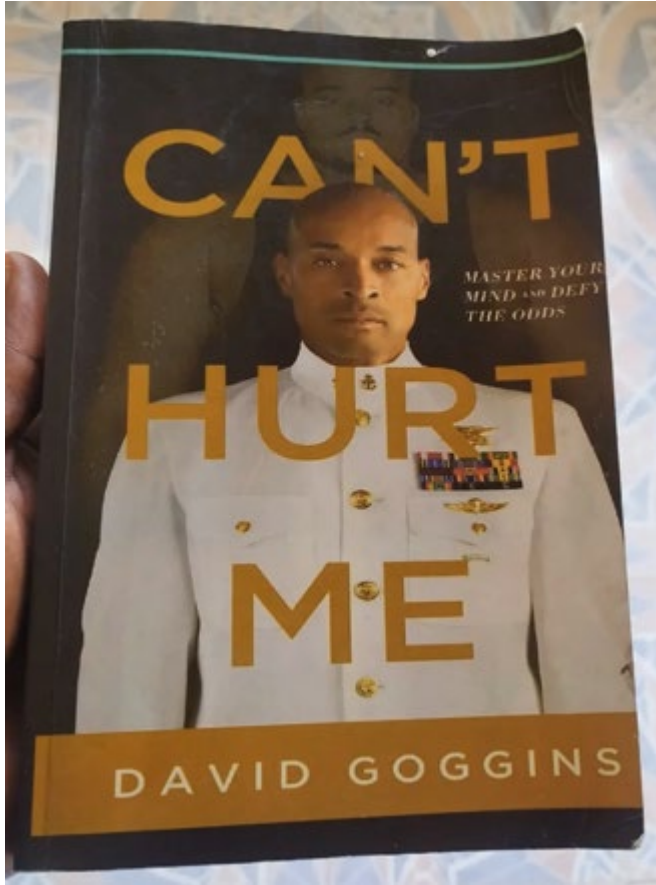
85. The bootleg version of the Can’t Hurt Me was stored in Amazon’s warehouse. Upon information and belief, bootleg versions of the Books are stored and comingled next to authentic versions of the Books. When Amazon’s supposed “advanced technology” fails to detect fake listings or to prevent bootleg versions of the books from entering its warehouses, Amazon does not “strictly prohibit” the sale of counterfeit or inauthentic products. It allows the creation of

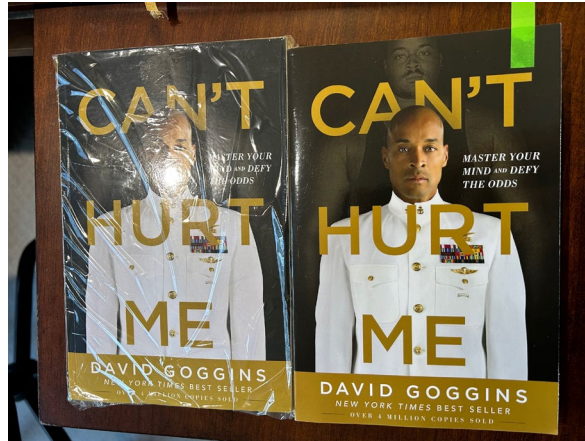
1 the listing. It allows consumers to purchase the bootleg versions. It allows those consumers to
2 think Goggins was behind the poor quality.

3 86. Plaintiffs conducted the monitoring for the Etenda Mart bootleg book, not Amazon.
4 Plaintiffs expended their resources to monitor Amazon's website, not Amazon. However, Amazon,
5 in its email back to Plaintiffs' infringement report claimed "Amazon has zero tolerance for
6 counterfeit products. As a result, we've taken action against the supplier of this product and
7 removed their ability to supply products for sale in Amazon's stores." Etenda Mart and others,
8 however, were allowed to continue selling.

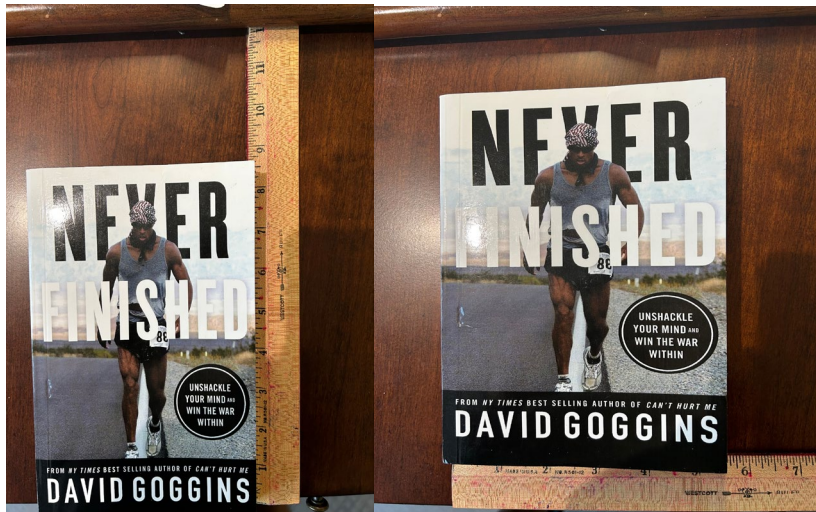
9 87. GBNB's sales efforts have been stunted by competing sales of bootleg versions of
10 the Books, which often undercut the price of an authentic copy and are offered in languages that
11 authorized copies do not come in.

12 88. Bootleg books are of inferior quality. For example, photographs below show
13 bootleg versions of Can't Hurt Me. The bootleg versions are smaller, have the wrong coloring,
14 have incorrect and often broken bindings, are off-center, and are overall substandard products.





89. Bootleg copies of Never Finished were also sold.



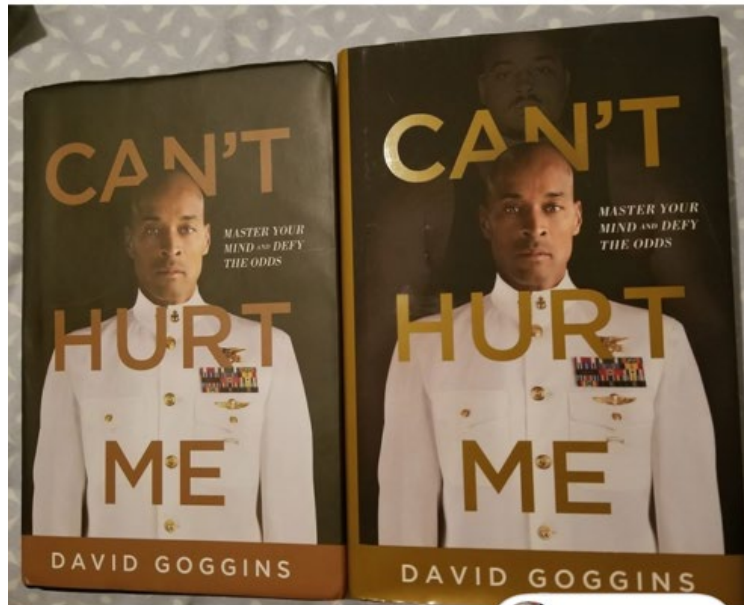
90. Consumers notice when they receive copies of bootleg versions of the Books. Below is a post from Alfonso Velez related to a bootleg version of Can't Hurt Me.



Alfonso Velez

★ Rising Star · 10 hrs · 🧑🏿

The one on the right is a little bigger and a little thicker than the one on the left. Same exact book, same amount of pages. Also, the one on the right has the (bigger) #Goggins behind him. The one on the left doesn't.



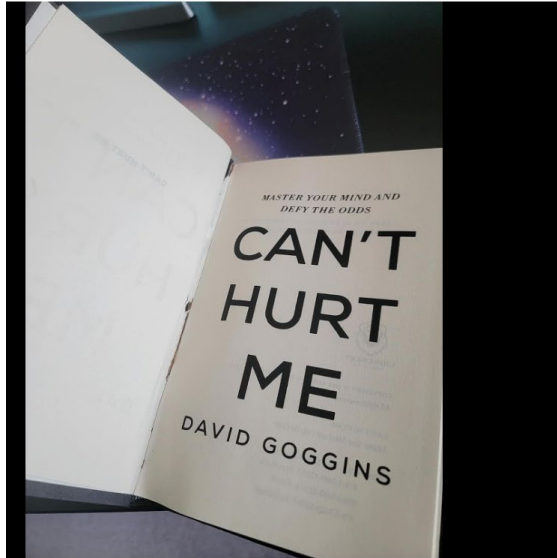
👍 Like



Interacting as yourself

91. When customers receive bootleg books, they receive books that are inferior in quality. They get upset and write negative reviews. Negative reviews tell other customers to not buy the books related to those negative reviews. Numerous negative reviews of Goggins' Books were posted on Amazon.com. Those negative reviews adversely impacted Goggins and the sales of legitimate Books.

92. In direct contrast to Goggins' reputation for providing superior products, the bootleg versions of the Books are often of poor quality, including flimsy bindings (i.e., pages fall out), cheap paper, blurred photographs, misaligned text, missing pages, or upside-down pages. For example, a consumer who purchased a bootleg copy of Can't Hurt Me from Amazon.com posted a review noting that he had not even started reading the book and its binding was already ripped:



Bob Mory

**Quality of the book**

Reviewed in the United States on June 12, 2023

I'm sure it's going to be a good book but production quality very poor, first time opened the book, already ripped

Images in this review



93. Consumers who purchase a bootleg copy of Goggins' Books from Amazon.com are often disappointed and dissatisfied with its quality. Mistakenly, they direct their ire toward Goggins in the form of negative social media posts and negative reviews left on Goggins' Amazon.com store. Negative consumer opinions often deter other consumers from making similar purchases. As a result, Goggins, and his businesses, suffer the reputational and economic harm caused by the bootleg copies, even though Amazon is the responsible party.

94. In one such review for Can't Hurt Me, a consumer commented that the purchased book was "Awful quality." The consumer stated the words did not line up and the cover was not printed straight. But the consumer did not have a legitimate version of Goggins' book. It was a bootleg. Nevertheless, customers see the reviews and make decisions based on bad reviews. Below is the example described where another customer found the review helpful.



Brittany

**Awful quality**

Reviewed in Australia on August 3, 2022

Verified Purchase

The quality is awful. The words don't line up and the cover is not printed straight. The book is also damaged.

One person found this helpful

95. Upon information and belief, there were hundreds of negative comments published on Amazon's websites that complained of quality issues related to the Books. Many of the complaints, however, related to bootleg versions, not the legitimate versions. Amazon allowed reviews of the bootleg versions to be posted. Amazon did not remove the reviews despite knowing they were related to bootleg versions, not legitimate versions. Consumers were able to review and make their purchasing decisions based on the reviews.

96. In another example, a purchaser unwittingly purchased a bootleg copy of Can't Hurt Me and was so incensed by the terrible quality of the book's paper, they left a review on the product listing urging other consumers not to purchase the book. Four people found that review helpful:



KayakGuy

★☆☆☆☆ Terrible print quality - DON'T BUY!!

Reviewed in Canada on January 7, 2021

Verified Purchase

Book arrived yesterday and is almost unreadable.

Very thin paper and the printing is blurred and you can see the print from the other side of the page, so hard to read.

The paper is just one step above tissue paper.

The few photos are blurry black and white low-resolution, just printed on the same page as the text.

Complete waste of money.

4 people found this helpful

97. Amazon controls the reviews and has the ability to remove reviews at its option. As stated in its retort to the June 24, 2019 *New York Times* article, "Amazon also invests significant resources to protect the integrity of reviews in our stores because we know customers value the insights and experiences shared by fellow shoppers." Amazon, *Our response to the New York Times' story on book counterfeiting* (June 24, 2019) (Exhibit 1).

98. Amazon allowed the bootlegged versions of the Books to be listed on its websites. Amazon maintained listings associated with bootlegged versions of the Books. Amazon housed and warehoused the bootlegged versions of the Books. Amazon hosted the bootleg product listings.

1 Amazon sold or facilitated the sale of the bootlegged versions despite its knowledge of the bootleg
2 problem. Amazon profited from the sale of the bootlegged versions of the Books. Amazon shipped
3 the bootlegs to customers who thought they had purchased legitimate books. Amazon profited
4 from the shipping in at least charging consumers for Prime memberships. Amazon then allowed
5 consumers of the bootlegged versions to post on Amazon's websites about the terrible print quality
6 of the books, which they mistakenly attributed to Goggins.

7 99. Many times, Amazon would force Goggins and his team to purchase the bootlegged
8 versions of the Books before any action would be taken, of which Amazon profited together with
9 the unauthorized sellers. Even when a bootleg version of one of the Books was removed from
10 Amazon.com, Amazon ignored the larger issue and just removed a single book at a time, knowing
11 there were multiple bootleg versions of the Books listed. Amazon was not using any technology to
12 remedy the real harm—ongoing listings of bootleg versions. Goggins was forced to engage in
13 whack-a-mole efforts even though Amazon had the knowledge of infringement and ability to
14 remove the bootlegged versions of the Books.

15 100. When bootleg copies of the Books are sold on Amazon.com, the consumer does not
16 get what they expect. That harms the customer and the customer's feelings towards Goggins (the
17 author) are negatively impacted. Indeed, Goggins' reputation is damaged because consumers,
18 trusting Amazon's marketing assertions that it does not sell counterfeit products, believe Amazon
19 would not allow such bootlegs to be sold. Additionally, while the bootleggers and Amazon receive
20 profits, Plaintiffs receive nothing other than bad reviews. Every such sale deprives Plaintiffs of
21 revenue they rightly should receive. Both the customer and Plaintiffs are harmed.

22 101. Amazon financially benefits from the sale of Goggins' Books on the Amazon
23 platforms, regardless of whether the sale is a legitimate, authorized sale or the sale is of a bootleg
24 copy. *See Jay Greene, How Amazon's quest for more, cheaper products has resulted in a flea*
25 *market of fakes*, The Washington Post,

1 [https://www.washingtonpost.com/technology/2019/11/14/how-amazons-quest-more-cheaper-](https://www.washingtonpost.com/technology/2019/11/14/how-amazons-quest-more-cheaper-products-has-resulted-flea-market-fakes)
 2 [products-has-resulted-flea-market-fakes](https://www.washingtonpost.com/technology/2019/11/14/how-amazons-quest-more-cheaper-products-has-resulted-flea-market-fakes) (November 14, 2019) (reporting Amazon keeps “a
 3 roughly 15 percent cut” of all third-party sales, whether bootleg or legitimate) (Attached hereto as
 4 Exhibit 7).

5 102. As a result, Amazon has outsized economic incentive to allow counterfeiters to
 6 remain on the Amazon platforms, which creates a striking conflict in its purported efforts to police
 7 and stop such parties.

8 103. The bootleg issues are not limited to books, but include other products, such as
 9 apparel. Below is an example of a product listing on Amazon’s website for a bootleg version of
 10 Plaintiffs’ shirt:



104. Goggins does not sell his apparel on Amazon. No product other than the Books
 should appear on Amazon using Plaintiffs’ intellectual property.

1 105. By knowingly permitting the sale of bootleg versions of the Books on Amazon.com
2 and other Amazon websites, Amazon is directly responsible for allowing consumers to believe that
3 one or more of Plaintiffs were responsible for the quality issues.

4 106. The proliferation of bootlegged versions of the Books caused Goggins and his
5 businesses to modify their business practices to combat the sales. Instead of dedicating resources to
6 promoting his Books and developing additional lines of business, which was the original business
7 plan, Plaintiffs' resources were redirected to (1) monitor Amazon's websites for listings of bootleg
8 versions of the Books and (2) plead with Amazon to remove any such listings. Additionally,
9 Plaintiffs redirected resources to start a merchandise line to combat the fake items being sold on
10 Amazon.

11 **GOGGINS' AND OTHERS' EFFORTS TO COMBAT BOOTLEGS ON AMAZON**
12 **SHOWS THE FALSITY OF AMAZON'S PUBLIC STATEMENTS**

13 107. Plaintiffs' experience pleading with Amazon to remove bootleg books from
14 Amazon.com and its other websites is directly contrary to Amazon's publicly touted statements
15 that it strictly prohibits the sale of bootleg products.

16 108. Amazon's 2023 BPR and other marketing efforts lead consumers to believe that
17 Amazon's counterfeiting crisis is a thing of the past. But Goggins' own present-day experience
18 demonstrates the falsity of Amazon's statements and exposes its attempts to mislead the
19 consuming public.

20 109. GBNB competes with bootleg offerings at lower prices and often offering free
21 shipping on Amazon's websites.

22 110. Plaintiffs repeatedly contacted Amazon through its established counterfeit reporting
23 channels and were consistently rebuffed.

24 111. Due to the ubiquity of bootleg copies of Can't Hurt Me being sold on Amazon's
25 international websites, GBNB reluctantly entered very unfavorable agreements with foreign

1 publishers, in the hope they would do what Amazon refused—police and reduce rampant
2 international counterfeiting.

3 112. Plaintiffs repeatedly sent Amazon emails detailing the bootlegging problems, but
4 Amazon made no progress against the infringers.

5 113. In fact, Amazon’s inept application of its anti-counterfeiting policies resulted in
6 removal of Goggins’ own authorized French edition of his book while bootleg versions remained
7 available for sale on Amazon’s marketplace.

8 114. Plaintiffs have spent, and are still spending, countless hours and hundreds of
9 thousands of dollars seeking Amazon’s assistance in taking down bootleg copies of the Books. For
10 example, Plaintiffs, on numerous occasions, sent emails to Amazon detailing the exact
11 Amazon.com listings of bootleg copies of his Books and the listings were never removed.

12 115. At every turn, Plaintiffs’ efforts to collaboratively work with Amazon were met
13 with resistance and dismissal by Amazon. Goggins had enough.

14 116. On October 5, 2023, feeling as if he had no other option, Goggins posted a video
15 (the “Video”) to his 11 million followers on Instagram exposing Amazon’s indifference to the
16 onslaught of bootleg copies of Goggins’ Books being sold on the Amazon platforms. The Video
17 received over 6 million views and thousands of comments.

18 117. Shortly after the Video was posted, and only after Goggins was forced to take that
19 action, Amazon removed all but Goggins’ legitimate listings from Amazon’s websites, including
20 its international websites. This is a step Amazon could have taken long before. Amazon, however,
21 failed to take the appropriate actions. That extended period of bootleg book sales caused damage to
22 Goggins and his followers and others who purchased bootleg books.

23 118. Amazon’s reaction to the Video demonstrates it is misleading consumers. Amazon
24 allowed an inexplicable number of bootleg books to be sold via its marketplaces while proudly
25 touting them as trustworthy.

119. Goggins is not alone. Amazon's conduct is contrary to its public statements in connection with other sellers. Other authors' books are being bootlegged as well, including Michelle Obama with her book, Becoming:



Marsha S. Page

★☆☆☆☆ **Damaged, defective quality**

Reviewed in the United States on May 12, 2020

Verified Purchase

I am so very disappointed. I bought this book in November, however it was added to my "need to read" pile and I just started reading this book about a week and a half ago. When I came upon Chapter 13, I found that several pages were "white-washed", so light they could not be read, or completely white. Then, there were normal pages of text that were just fine. This continues on throughout the entire chapter of both chapter 13 and 14. I am completely disappointed as Amazon said there is nothing I can do about it now. I did not get to "talk" to an actual representative. In my opinion, this book should be replaced. It was sold to me as "new". As you can see from the pictures. It is a defective copy. The book itself has been excellent so far. The content is wonderful. I am so sad.



J. Ritchey

★☆☆☆☆ **Flawed Printing**

Reviewed in the United States on October 25, 2019

Verified Purchase

I love the book and the writing. The problem is that I just recently started reading it, and now that I'm midway through it, starting with page 178, MANY pages have printing that is so light it is nearly impossible to read. Had I noticed earlier I'd have returned it for a new copy. Is there any chance that can still happen? Here are the pages with poor printing: 178,180,181,183,186,188,189,191,194,196,197,199,202,204,205,207!!! Not only will it be a struggle to read those pages, I was hoping to pass this wonderful story on to my sister for Christmas this year. Now it is a flawed gift, so it will remain sadly on my bookshelf, or tossed away. I am very disappointed and hope I can get a new copy.

120. The proliferation of bootleg products on Amazon's websites shows its public statements are false. In a study by Gartner, of 321 brands offered for sale on Amazon.com by third-party merchants, one-third of the products had received at least one review by a customer reporting it as fake goods. Jeff Bercovici, *Small Businesses Say Amazon Has a Huge Counterfeiting Problem. This "Shark Tank" Company is Fighting Back*, Inc. Magazine, <https://www.inc.com/magazine/201904/jeff-bercovici/amazon-fake-copycat-knockoff-products-small-business.html> (April 2019) (Attached hereto as Exhibit 8).

No one knows for certain what proportion of the billions of items retailed through Amazon every year are counterfeit. Amazon doesn't even try to

answer that question, preferring to say that 99.9 percent of its product page views are for pages without copyright or trademark infringement notices against them--the answer to a question no one asked. But in a study of 321 brands offered for sale on Amazon by third-party merchants, the research firm Gartner found that one-third of their products had received at least one review by a customer reporting it as fake goods.* When the U.S. Government Accountability Office made test buys on the websites of five major e-commerce purveyors, including Amazon, for a 2018 report, nearly half of the 47 items it purchased turned out to be phony.

121. Similarly, in 2018 the U.S. Government Accountability Office test bought 47 items from several e-commerce purveyors, including Amazon.com, and reported nearly half were bootleg products. *Id.* Amazon's 2023 BPR postures as if Amazon's bootleg epidemic has dramatically improved, but as recently as September of 2023 Amazon had assigned its coveted "Amazon's Choice" endorsement to bootleg products. *Online Shoppers Face Counterfeits and Scams on Amazon, eBay and Walmart*, The Counterfeit Report, https://thecounterfeitreport.com/press_release_details.php/?date=2023-09-14&id=995 (September 14, 2023) (Attached hereto as Exhibit 9).

122. Wirecutter, the product-review branch of the *New York Times*, reports major retailers, such as Birkenstock, no longer directly sell on Amazon.com due to the "proliferation of counterfeits" and Amazon's general "unwillingness to help it fight" against the counterfeiting. Ganda Suthivarakom, *Welcome to the Era of Fake Products*, New York Times, <https://www.nytimes.com/wirecutter/blog/amazon-counterfeit-fake-products> (February 11, 2020) (Attached hereto as Exhibit 10). Although some credit Amazon with "trying" to combat counterfeiters, almost all parties agree that Amazon's efforts are ineffective or at least too insignificant to stunt its infestation of bootleg products. *Id.*

123. As a result, the burden of combating bootleg products on Amazon is placed on small business owners, an expensive task that can require dozens of hours a month. Jeff Bercovici,

1 *Small Businesses Say Amazon Has a Huge Counterfeiting Problem. This “Shark Tank” Company*
 2 *is Fighting Back* (April 2019) (Exhibit 8).

3 Rooting out and quashing the fakes, remonstrating with Amazon account
 4 executives, and securing Brush Hero's intellectual property in foreign
 5 jurisdictions, all things Williams had never thought much about, began
 6 consuming dozens of hours each month. It threatened to overtake his job--a
 7 luxury his nine-person startup could ill afford. But it was all that stood between
 8 them and extinction. It became, he says, "like an American small-business
 9 horror story."

10 124. When sellers attempt to leverage Amazon's vast resources against counterfeiters by
 11 filing a report, they often receive useless responses and unreasonably high evidentiary
 12 prerequisites. For example, Jon Fawcett, the CEO of Fuse Chicken, details receiving unhelpful
 13 "rote responses" to repeated petitions for Amazon to act against counterfeiters, and the requirement
 14 that he produce information about the seller that only Amazon possessed. *Id.*

15 125. Amazon was willing to profit from and allow the proliferation of bootleg versions
 16 of Goggins' Books until Amazon's own reputation was put at risk. Despite being handed multiple
 17 examples of bootleggers selling on Amazon's websites from Goggins, Amazon failed to take the
 18 appropriate action. Amazon continued to allow the bootleg versions of the Books to be sold.

19 126. As a result of these bootleg sales on Amazon's websites, Goggins' reputation and
 20 brand have been permanently damaged.

21 127. Amazon's headlines, marketing, and public statements have been false and
 22 misleading.

23 128. Plaintiffs have suffered economic damage from bootleg sales on Amazon's websites
 24 in the form of lost profits, lost opportunities, and enforcement and legal costs.

25 129. Defendant has obtained profits from the bootleg sales of Goggins' Books on
 Amazon's websites that, in fairness, it does not deserve.

1 130. Despite Goggins' earnest attempts to preemptively work with Amazon, the same
 2 enforcement issues are now occurring with Goggins' second book, Never Finished, which further
 3 compounds the harm to Goggins' brand and reputation and increases his lost profits.

4 131. Before Never Finished was released, Goggins proactively reached out to Amazon to
 5 inquire what could be done to prevent the ongoing issues with Can't Hurt Me. Goggins wanted to
 6 proactively work with Amazon to prevent the same issues of bootleg versions and non-authorized
 7 sellers. Even though Goggins was a world-renowned author in December of 2022 when Never
 8 Finished debuted and despite Goggins' pleading with Amazon to remove bootlegged versions,
 9 Amazon chose to take no action. Bootleg versions of Never Finished again hit Amazon.com and
 10 Amazon's international sites.

11 132. Goggins and his team tried to rectify the infringement on Amazon.com only to be
 12 met with resistance from the company, Amazon, who claims to have the world's most trustworthy
 13 shopping experience, who claims to strictly prohibit the sale of counterfeit and inauthentic
 14 products, and who claims that customers can trust that they will receive an authentic product when
 15 they shop on Amazon. Those claims were not true to Goggins and his customers and are not true
 16 for other sellers, authors, and customers of other products.

17 **COUNT I: INFRINGEMENT OF PERSONALITY RIGHTS IN VIOLATION OF**
 18 **WASHINGTON'S PERSONALITY RIGHTS ACT ("PRA"), RCW § 63.60.010 ET SEQ.**

19 133. Goggins incorporates preceding paragraphs 1-132 as if fully set forth herein.

20 134. David Goggins is an individual.

21 135. David Goggins is alive and not otherwise deceased.

22 136. Amazon has sold bootleg copies of Goggins Built Not Born, LLC's books,
 23 summaries of those books, foreign translations of those books, biographies using Goggins'
 24 imagery, apparel, and other products ("Infringing Products"), that include Goggins' name,
 25 photograph, and likeness.

1 137. Amazon's use of at least Goggins' name, photograph, and likeness on the sale of
2 Infringing Products is without Goggins' express or implied consent.

3 138. In the sale of Infringing Products, Amazon has used at least Goggins' name,
4 photograph, and likeness in the sale of goods, merchandise, or products entered into commerce in
5 this state.

6 139. The use of at least Goggins' name, photograph, and likeness on the sale of
7 Infringing Products serves no function but to exploit Goggins.

8 140. Goggins has been damaged by Amazon's use of at least Goggins' name,
9 photograph, and likeness on the sale of Infringing Products, including harm done to his reputation
10 of excellence by inferior quality products.

11 **COUNT II: FALSE ADVERTISING**
12 **15 U.S.C. § 1051 *et seq.***

13 141. Plaintiffs incorporate preceding paragraphs 1-140 as if fully set forth herein.

14 142. Dharmesh Mehta, Amazon's Vice President of Worldwide Selling Partner Services,
15 and a spokesperson for Amazon, made statements that are literally false or impliedly false in
16 Amazon's Brand Protection Report published in April 2023.

17 143. Mehta stated:

18 When a customer makes a purchase in our store, they trust they will receive an
19 authentic product, whether the item is sold by Amazon Retail or by one of our millions
20 of independent selling partners. And when small businesses choose to sell in our store,
they trust we will provide a great selling experience free from competition with bad
actors.

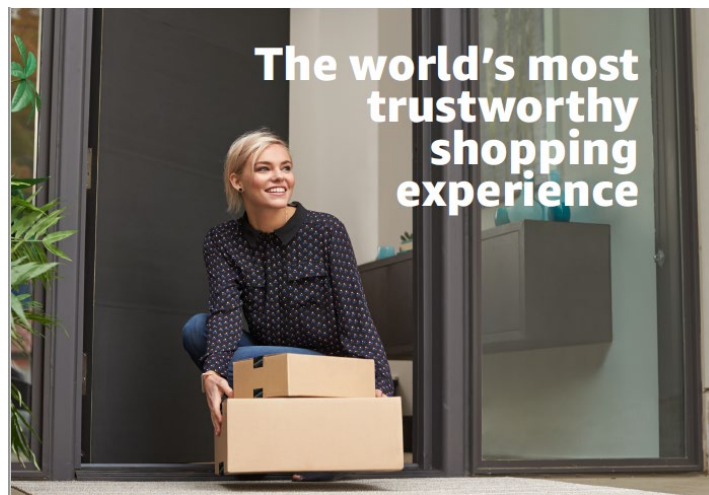
21 *Amazon Brand Protection Report* (April 2023) (Exhibit 2), at 2.
22
23
24
25

Introduction

Twenty-eight years ago, Amazon set out to become Earth's most customer-centric company, and a critical part of that mission is earning and maintaining customers' trust. When a customer makes a purchase in our store, they trust they will receive an authentic product, whether the item is sold by Amazon Retail or by one of our millions of independent selling partners. And when small businesses choose to sell in our store, they trust we will provide a great selling experience free from competition with bad actors. These drive us to continue to innovate on how we ensure a trustworthy shopping and selling experience every day for our customers and selling partners.

144. Amazon's statements were made in interstate commerce.

145. Mehta's statement that Amazon is "[t]he world's most trustworthy shopping experience" is literally false or impliedly false.



Amazon Brand Protection Report (April 2023) (Exhibit 2), at 5.

146. Mehta's statement that Amazon "continuously monitor[s] our store for potential infringement . . . [and] use[s] the data and learnings gathered throughout these processes to innovate and improve our proactive protections" is literally false or impliedly false.

Continuous Monitoring

We continuously monitor our store for potential infringement. From the moment a seller lists a product for sale in our store, our advanced technology continually scans for potential counterfeit, fraud, and abuse—including future changes submitted for the product. We use the data and learnings gathered throughout these processes to innovate and improve our proactive protections. When we receive a valid notice of infringement or a customer complaint, our machine learning algorithms use this information to learn, improving our proactive detections and scaling protections for brands.

Amazon Brand Protection Report (April 2023) (Exhibit 2), at 7.

147. Mehta’s statement that Amazon “will continue to invest and innovate until we drive counterfeits to zero in our store” is literally false or impliedly false.

We are proud of the progress we have made this past year, and we will continue to invest and innovate until we drive counterfeits to zero in our store. We also appreciate the growing industrywide partnership and collaboration in the fight against counterfeiting. While the industry still has a long way to go in driving the right public and private sector partnerships, we are excited about our progress and what we can do together to hold bad actors accountable to ensure the entire industry is rid of counterfeits.

Amazon Brand Protection Report (April 2023) (Exhibit 2), at 3.

148. Mehta’s statement that Amazon “act[s] quickly to protect customers and brands, including the problematic content or listing and, where appropriate, blocking accounts, withholding funds, and referring bad actors to law enforcement” is literally false or impliedly false.

When Amazon identifies an issue, we act quickly to protect customers and brands, including removing the problematic content or listing and, where appropriate, blocking accounts, withholding funds, and referring bad actors to law enforcement. Bad actors are constantly trying new tactics to attempt to evade our detection—for example, we have recently found a number of instances where they list generic products in Amazon’s store while purposefully promoting the same listings as counterfeits via social media. We continue to innovate to stay ahead of counterfeiters, and we work with brands and law enforcement to hold bad actors accountable. Our goal is to protect our store and customers and stop counterfeiters for good.

Amazon Brand Protection Report (April 2023) (Exhibit 2), at 15.

149. Mehta’s statement that when Amazon “find[s] a counterfeit, [it] go[es] beyond [its] store, going upstream to identify the warehouses and distribution network involved in the

counterfeit production so [it] can prevent the counterfeit products from re-entering the supply chain” is literally false or impliedly false.

Removing Counterfeits from the Supply Chain

The fight against counterfeits is a global one, with bad actors operating across many retail channels. When we find a counterfeit, we go beyond our store, going upstream to identify the warehouses and distribution network involved in the counterfeit production so we can prevent the counterfeit products from re-entering the supply chain. This protects and benefits customers whether they are shopping on Amazon or elsewhere.

Amazon Brand Protection Report (April 2023) (Exhibit 2), at 16.

150. Amazon’s Brand Protection Report, including the comments by Dharmesh Mehta, Amazon’s Vice President of Worldwide Selling Partner Services, constitutes commercial speech as the speech does no more than propose a commercial transaction.

151. By virtue of Amazon’s unauthorized sales of Infringing Products, promotion of those products, and related activities to sell those products via Amazon.com and other Amazon websites, Plaintiffs—through their authorized sales—is in competition with Amazon.

152. Amazon’s Brand Protection Report, including the comments by Dharmesh Mehta, Amazon’s Vice President of Worldwide Selling Partner Services, is designed for the purpose of influencing Amazon’s customers to trust Amazon’s procedures and to buy Amazon’s products believing them to be authentic.

153. Amazon’s Brand Protection Report, including the comments by Dharmesh Mehta, Amazon’s Vice President of Worldwide Selling Partner Services, is publicly available and searchable and is sufficiently disseminated to the relevant purchasing public, namely Amazon platform customers.

154. Plaintiffs have been damaged by Amazon’s false advertising as Amazon’s literally false or impliedly false statements have caused customers to purchase Infringing Products believing them to be authentic, instead of buying authorized products from Plaintiffs.

155. Plaintiffs are entitled to compensatory damages.

COUNT III: TORTIOUS INTERFERENCE

156. Plaintiffs incorporate preceding paragraphs 1-155 as if fully set forth herein.

157. Amazon's continuous sales of unauthorized bootleg copies of GBNG's books Can't Hurt Me and Never Finished impedes on and threatens Plaintiffs' ability to enter into foreign rights deals and other contractual terms with publishers, or to negotiate deals with publishers based on the unauthorized sales.

158. GBNG was forced to enter into agreements with unfavorable terms to combat Amazon's sales of unauthorized books in foreign markets. Amazon's conduct impeded on GBNG's business expectancy related to those foreign markets as well as multiple other product and service deals.

159. GBNG has valid contractual agreements with 28 foreign publishers for Can't Hurt Me and 9 foreign publishers for Never Finished regarding foreign and other platform publication and distribution of GBNG's books Can't Hurt Me and Never Finished.

160. Amazon had knowledge of the same or similar relationships through its correspondence with Plaintiffs and their representatives.

161. Amazon's bootleg sales of foreign language versions of Can't Hurt Me and Never Finished intentionally interfere with Plaintiffs' expectancy to enter into contracts with third parties as well as GBNG's contractual relationship(s), causing a breach of the relationship or expectancy.

162. Amazon interfered by the improper means of bootleg sales of the books Can't Hurt Me and Never Finished.

163. Amazon's unauthorized bootleg sales of the books Can't Hurt Me and Never Finished have caused damage to Plaintiffs by adversely impacting Plaintiffs' ability to negotiate terms of agreements related to products and in connection with foreign language deals.

164. Amazon has tortiously interfered with a contractual relationship or business expectancy of Plaintiffs and has caused Plaintiffs financial harm.

1 165. Plaintiffs are entitled to compensatory damages.

2 **COUNT IV: UNJUST ENRICHMENT**

3 166. Plaintiffs incorporate preceding paragraphs 1-165 as if fully set forth herein.

4 167. Amazon sold and profited from the sale of bootleg copies of Can't Hurt Me and
5 Never Finished as well as other products that contain Plaintiffs' intellectual property.

6 168. Defendant received payments for and profited from the unauthorized sales of
7 bootleg copies of Can't Hurt Me and Never Finished as well as other products that contain
8 Plaintiffs' intellectual property.

9 169. Plaintiffs did not receive payments for or profit from the unauthorized sales of
10 bootleg copies of Can't Hurt Me and Never Finished as well as other products that contain
11 Plaintiffs' intellectual property.

12 170. Plaintiffs did not benefit from the sale of bootleg copies of Can't Hurt Me and
13 Never Finished as well as other products that contain Plaintiffs' intellectual property.

14 171. Because of Plaintiffs' repeated reports to Amazon regarding the existence of
15 bootleg copies of Can't Hurt Me and Never Finished as well as other products that contain
16 Plaintiffs' intellectual property available for sale on Amazon's platform and the existence of
17 bootleg sales, Defendant appreciated or knew of the benefit it received as a result of the
18 unauthorized sales of bootleg copies of Can't Hurt Me and Never Finished as well as other
19 products that contain Plaintiffs' intellectual property.

20 172. Defendant did not pay Plaintiffs for the unauthorized sales of bootleg copies of
21 Can't Hurt Me and Never Finished as well as other products that contain Plaintiffs' intellectual
22 property

23 173. Defendant retained the revenues and profits from the unauthorized sales of bootleg
24 copies of Can't Hurt Me and Never Finished as well as other products that contain Plaintiffs'
25 intellectual property.

174. The circumstances of the unauthorized sales make it inequitable for Defendant to retain the revenues and profits without payment to Plaintiffs.

175. Defendant has been unjustly enriched by the unauthorized sales of Can't Hurt Me and Never Finished as well as other products that contain Plaintiffs' intellectual property.

176. Defendant is to be disgorged of any benefit they received from the unauthorized bootleg sales of Can't Hurt Me and Never Finished as well as other products that contain Plaintiffs' intellectual property.

COUNT V: CONTRIBUTORY COPYRIGHT INFRINGEMENT
17 U.S.C. § 501, et seq

177. Plaintiffs incorporates preceding paragraphs 1-176 as if fully set forth herein.

178. GBNB maintains federal copyright registrations for Can't Hurt Me: Master Your Mind and Defy the Odds and Never Finished: Unshackle Your Mind and Win the War Within:

Work Title	Registration No.	Registration Date
<u>Can't Hurt Me: Master Your Mind and Defy The Odds.</u>	TX0008752122	2019-06-07
<u>Never Finished: Unshackle Your Mind and Win the War Within.</u>	TXu002337826	2022-09-14

179. Third-party individuals and entities have copied, reproduced, prepared derivative works, and distributed GBNB's registered copyrighted works without GBNB's authorization.

180. Third-party individuals and entities have copied, reproduced, prepared derivative works, sold, and distributed GBNB's registered copyrighted works through Amazon's stores with Amazon's knowledge of the unauthorized sales.

181. Amazon knew of the infringement of GBNB's copyrighted works through at least being placed on actual notice of the infringement.

1 182. Amazon has knowingly and unlawfully allowed, enabled, facilitated, or otherwise
2 contributed to the infringement by the third-party individuals and entities.

3 183. Amazon has knowingly and willfully caused, participated in, materially contributed
4 to, induced, and derived economic benefit from the infringement of GBNB's copyright interests.

5 184. The acts of Amazon have caused, and will continue to cause, damage to GBNB in
6 an amount to be determined at trial. At a minimum, GBNB is entitled to its actual damages and
7 disgorgement of the profits of Amazon, or statutory damages under 17 U.S.C. § 504.

8 185. GBNB is entitled to recover its costs and reasonable attorneys' fees under 17 U.S.C.
9 § 505.

10 **COUNT VI: VICARIOUS COPYRIGHT INFRINGEMENT**
11 **17 U.S.C. § 501, *et seq.***

12 186. Plaintiffs incorporate preceding paragraphs 1-185 as if fully set forth herein.

13 187. Third-party individuals and entities have copied, reproduced, prepared derivative
14 works, and distributed GBNB's registered copyrighted works without GBNB's authorization.

15 188. Amazon receives a direct financial benefit from third parties who copy, reproduce,
16 prepare derivative works, sell, or distribute GBNB's registered copyrighted works on the
17 Amazon.com website and other of its websites, including the sale of copies of the Books.

18 189. Amazon receives a direct financial benefit through the marketing and promotion of
19 the infringing copies of the Books that draw customers and sales, which result in profits to
20 Amazon.

21 190. Amazon has the right and ability to supervise and control the infringing activity of
22 the third-party individuals and entities that sell infringing copies of the Books through Amazon's
23 websites through at least the exercise of substantial control over the third-party vendors, the
24 products displayed and sold, and the marketing and advertising of the products sold on Amazon's
25 websites.

1 191. Amazon failed to timely exercise its right and ability to supervise or control the
2 infringing activity associated with the promotion and sale of infringing copies of the Books on
3 Amazon's websites.

4 192. Amazon had and has the ability to immediately stop or limit the infringing activity
5 occurring on its websites.

6 193. Amazon failed to timely stop or limit the infringing activity of infringing copies of
7 the Books occurring on its websites.

8 194. Amazon is vicariously liable for the infringement by the third-party individuals and
9 entities.

10 195. GBNB has been damaged by, and Amazon has profited and materially benefited
11 from, the direct infringement of GBNB's copyrighted Books.

12 196. The acts of Amazon have caused, and will continue to cause, damage to GBNB in
13 an amount to be determined at trial. At a minimum, GBNB is entitled to its actual damages and
14 disgorgement of the profits of Amazon, or statutory damages under 17 U.S.C. § 504.

15 197. GBNB is entitled to recover its costs and reasonable attorneys' fees under 17 U.S.C.
16 § 505.

17 **COUNT VII: VIOLATION OF WASHINGTON CONSUMER PROTECTION ACT (RCW**
18 **19.86.010 ET SEQ.)**

19 198. Plaintiffs incorporate preceding paragraphs 1-197 as if fully set forth herein.

20 199. Amazon made statements that are deceptive or have the capacity to deceive.

21 200. Amazon's statements were literally false or impliedly false.

22 201. Amazon's statements constitute commercial speech.

23 202. By virtue of Amazon's unauthorized sales of bootleg copies of Can't Hurt Me and
24 Never Finished as well as other products that contain Plaintiffs' intellectual property, Goggins—
25 through his authorized sales—is in competition with Amazon.

1 203. Amazon's statements are designed for the purpose of influencing Amazon's
2 customers to trust Amazon's procedures and to buy Amazon's products believing them to be
3 authentic.

4 204. Amazon's statements are publicly available and searchable and are sufficiently
5 disseminated to the relevant purchasing public, namely Amazon platform customers.

6 205. Amazon's literally false or impliedly false statements constitute an unfair or
7 deceptive act designed to influence purchasing.

8 206. Amazon's unauthorized creation of listings related to bootleg copies of Can't Hurt
9 Me and Never Finished as well as other products that contain Plaintiffs' intellectual property,
10 hosting of the listings, and promotion of the listings constitute an unfair or deceptive act designed
11 to influence purchasing.

12 207. Amazon's literally false or impliedly false statements occur in trade or commerce.

13 208. Amazon's unauthorized sales of bootleg copies of Can't Hurt Me and Never
14 Finished as well as other products that contain Plaintiffs' intellectual property occur in trade or
15 commerce.

16 209. Amazon's literally false or impliedly false statements impact the public interest,
17 including deceiving customers and willing purchasers of Can't Hurt Me and Never Finished as
18 well as other products that contain Plaintiffs' intellectual property.

19 210. Amazon's unauthorized sales of bootleg copies of Can't Hurt Me and Never
20 Finished as well as other products that contain Plaintiffs' intellectual property impact the public
21 interest, including deceiving customers and willing purchasers of Can't Hurt Me and Never
22 Finished as well as other products that contain Plaintiffs' intellectual property.

23 211. Amazon knowingly continued to make false or impliedly false statements even after
24 Plaintiffs informed Amazon that unauthorized bootleg copies of Can't Hurt Me and Never
25 Finished as well as other products that contain Plaintiffs' intellectual property were being sold.

212. Plaintiffs have been damaged by Amazon's literally false or impliedly false statements, including by lost sales and harm to reputation.

213. Plaintiffs have been damaged by Amazon’s unauthorized sales of bootleg copies of Can’t Hurt Me and Never Finished as well as other products that contain Plaintiffs’ intellectual property, including by lost sales and harm to reputation.

214. Plaintiffs are entitled to compensatory damages and all other relief available.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing allegations and claims, Plaintiffs David Goggins, Goggins Built Not Born, LLC, and Goggins, LLC request the following relief against Defendant Amazon.com, Inc.:

1. An award to Plaintiffs of compensatory damages, including but not limited to damages for damage to reputation, lost sales, unjust enrichment, and compensation for enforcement efforts, and other reasonable compensation, in an amount to be determined;
2. An award to Goggins Built Not Born, LLC of actual damages and any additional profits of Defendant or statutory damages;
3. An award to Plaintiffs disgorging any revenues, profits, and benefits Defendant unjustly received and awarding them to Plaintiffs;
4. A constructive trust on Amazon in favor of Plaintiffs on all unjust revenues, profits, and benefits;
5. An accounting to Plaintiffs by Amazon for all unjust revenue, profits, and benefits;
6. An order causing Amazon to destroy all unauthorized bootleg copies of Goggins Built Not Born, LLC's books Can't Hurt Me: Master Your Mind and Defy the Odds and Never Finished: Unshackle Your Mind and Win the War Within;
7. An order causing Amazon to destroy all unauthorized copies of books and other

- 1 products containing Plaintiffs' intellectual property;
- 2 8. An award to Plaintiffs of pre- and post-judgment interest, costs and expenses,
- 3 disbursements, exemplary damages, and attorneys' fees in this action, in an amount to
- 4 be determined; and
- 5 9. An award to Plaintiffs of such other and further relief as the Court seems just and
- 6 equitable.

7 Plaintiffs hereby demand a trial by jury of all issues so triable.

8

9 SUBMITTED this 23rd day of February, 2024.

10 HARRIGAN LEYH FARMER & THOMSEN LLP

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